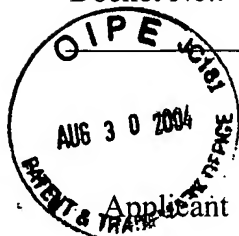


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RESPONSE TRANSMITTAL

Applicant : Brauker, et al.
App. No. : 10/646333
Filed : August 22, 2003
For : OPTIMIZED SENSOR
GEOMETRY FOR AN
IMPLANTABLE GLUCOSE
SENSOR
Examiner : Kremer, M. J.
Art Unit : 3736

CERTIFICATE OF MAILING

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

August 25, 2004

(Date)

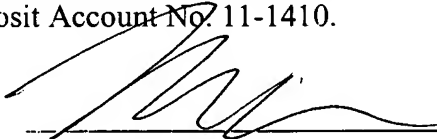
Rose M. Thiessen, Reg. No. 40,202

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing in the above-identified application are the following enclosures:

- (X) Response to Restriction Requirement in 3 pages.
- (X) The present application qualifies for small entity status under 37 C.F.R. § 1.27.
- (X) Return prepaid postcard.
- (X) Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.


Rose M. Thiessen
Registration No. 40,202
Attorney of Record
Customer No. 20,995
(619) 235-8550



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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Brauker, et al.
App. No. : 10/646,333
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Rose M. Thiessen, Reg. No. 40,202

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In an Office Action mailed on August 13, 2004, a Restriction Requirement was imposed. In connection therewith, it is asserted that the application contains claims directed to the following patentably distinct species of the claimed invention:

First Subset of Species: Type of sensor

- A. the sensor is a subcutaneous sensor (claim 2)
- B. the sensor is an intramuscular sensor (claim 3)
- C. the sensor is an intraperitoneal sensor (claim 4)
- D. the sensor is an intrafascial sensor (claim 5)

Second Subset of Species: Implantation of sensor

- E. the sensor is suitable for implantation in an auxiliary region (claim 6)
- F. the sensor is suitable for implantation in a soft tissue of a body (claim 7)
- G. the sensor is suitable for implantation at the interface between two tissue types (claim 8)

Third Subset of Species: Second major surface

- H. the second surface is flat (claim 11)
- I. the second major surface comprises a curvature (claim 12)

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Fourth Subset of Species: Position of first major surface

J. the sensor region is situated at a position on said first major surface offset from a center point of said first major surface (claim 13)

K. the sensor region is situated on said first major surface approximately at a center point of said first major surface (claim 14)

L. the sensor region is situated approximately at an apex of said first surface (claim 15)

Fifth Subset of Species: Shape

M. a substantially rectangular profile (claim 16)

N. a substantially rectangular profile with rounded corners (claim 17)

O. a substantially oval profile (claim 18)

P. a substantially circular profile (claim 19)

Q. substantially cuboidal defined by six faces, eight vertices, and twelve edges (claims 20-26)

R. substantially cylindrical defined by a curved lateral surface and two ends and wherein the sensor region is located on said lateral surface (claim 27)

S. substantially cylindrical defined by a curved lateral surface and two ends, and wherein at least one of said ends comprises the substantially curved portion on which the sensor region is located (claim 28)

T. substantially spherical (claim 29)

U. substantially ellipsoidal (claim 30)

Sixth Subset of Species: Body Material

a. material is selected from the group consisting of thermoplastic and thermoset (claim 61, 62, 73)

b. material is selected from the group consisting of metal, ceramic, and glass (claim 66)

Seventh Subset of Species: If (a) is selected from subset 6, then one of the following must be selected:

g. thermoset is epoxy (claim 63)

h. thermoset is silicone (claim 64)

i. thermoset is polyurethane (claim 65)

Applicants hereby elect, without traverse and without prejudice, the following disclosed species from each of the above subsets for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable:

First Subset of Species: Type of sensor - A. the sensor is a subcutaneous sensor

Second Subset of Species: Implantation of sensor - F. the sensor is suitable for implantation in a soft tissue of a body

Third Subset of Species: Second major surface - I. the second major surface comprises a curvature

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Fourth Subset of Species: Position of first major surface - L. the sensor region is situated approximately at an apex of said first surface

Fifth Subset of Species: Shape - N. a substantially rectangular profile with rounded corners

Sixth Subset of Species: Body Material - a. material is selected from the group consisting of thermoplastic and thermoset

Seventh Subset of Species: g. thermoset is epoxy

Applicants assert that the following claims are generic to the elected species: Claims 1-2, 7-10, 13-18, 20-26, 31-63, and 67-76.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: August 25, 2004

By: 

Rose M. Thiessen

Registration No. 40,202

Attorney of Record

Customer No. 20,995

(619) 235-8550

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